

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
(FORT LAUDERDALE)

Case Number: **08-CV-62086-Zloch-Snow**

INNOVATIVE PATENTED  
TECHNOLOGY, LLC,

Plaintiff,

**V.**

HTC CORPORATION and  
HTC AMERICA, INC.

**Defendants.**

## JURY DEMAND

**FILED by** *VT* **D.C.**  
ELECTRONIC

**Dec. 29, 2008**

STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

## COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Innovative Patented Technology, LLC complains of defendants HTC Corporation and HTC America, Inc. (collectively “HTC”), as follows:

### NATURE OF ACTION

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code, including 35 U.S.C. §§ 271, 281 and 284.

## **INNOVATIVE PATENTED TECHNOLOGIES AND THE PATENTS-IN-SUIT**

2. Innovative Patented Technology, LLC ("IPT") is a Florida limited liability company with offices in Delray Beach and Fort Lauderdale, Florida.

3. The patents-in-suit are: United States Patent No. 7,096,187, entitled "Compressed Audio Information" which issued on August 22, 2006 ("the '187 patent"); United States Patent No. 7,260,421 entitled "Communication Device That Communicates Events Using Compressed Audio Information" which

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issued on August 21, 2007 ("the '421 patent"); and United States Patent No. 6,738,643 entitled "Telephone Sync" which issued on May 18, 2004 ("the '643 patent").

4. IPT owns all right, title and interest in and, thus, has standing to sue for infringement of the '187, '421 and '643 patents.

#### **DEFENDANT**

5. HTC Corporation is a Taiwanese company. The HTC Corporation Headquarters is located at 23 Xinghua Road, Taoyuan 330, Taiwan. HTC does substantial business in this district and throughout the United States and owns and controls a subsidiary HTC America, Inc., which, likewise, does substantial business in this judicial district and elsewhere in the United States, including the marketing, sale and servicing of cell phones of the type at issue in this case.

#### **JURISDICTION AND VENUE**

6. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

7. HTC is subject to personal jurisdiction in this judicial district because it has transacted business and has committed acts of infringement in this district, at least by making, using, offering to sell, and selling infringing products through its (and its subsidiaries') retailer locations located in this judicial district and through websites that are designed to reach and are, in fact, used by customers in this judicial district.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b) because HTC is subject to personal jurisdiction, does business and has committed acts of infringement in this judicial district.

### **INFRINGEMENT**

9. HTC has directly infringed and is now directly infringing the asserted claims of the '187, '421, and '643 patents through its manufacture, use, sale and/or offer for sale of cellular phones in violation of 35 U.S.C. §271. HTC has also infringed the patents in suit by knowingly and actively inducing others to infringe, and by contributing to the infringement of others by the manufacture, use, sale, importation and/or offer for sale of its cellular phones.

10. Specifically, HTC's manufacture, use, sale and/or offer for sale of its cellular phone models, including, but not limited to the HTC Touch Dual constitutes infringement of at least claims 13, 15, 16 and 17 of the '187 patent; claims 1, 3, and 9 of the '421 patent; and claim 7 of the '643 patent. Such infringing activities have occurred at least through the operation of stores selling HTC cellular telephones and through HTC websites (see, e.g., <http://www.htc.com>).

11. These direct acts of infringement by HTC as set forth above have also occurred in this judicial district. They include HTC offering for sale and selling its cellular telephones at retailers located in this judicial district, such as the Best Buy location at 2829 North Federal Highway, Fort Lauderdale, Florida, 33306 and the Circuit City location at 1700 North Federal Highway, Fort

Lauderdale, Florida, 33305. The selling of HTC's cellular telephones has also occurred through HTC's websites that reach customers in this district.

12. HTC is also inducing third parties to infringe the '187, '421 and '643 patents. These third parties include: Best Buy, Circuit City, HTC website users, and service providers/retailers that offer plans compatible with HTC cellular telephones and sell HTC cellular telephones including: AT&T, Sprint, T-Mobile, and Verizon. HTC is inducing such acts of infringement and/or contributing to the infringement of others by, among other activities, providing third parties with instructions on how to make, use, sell, and offer to sell HTC cellular telephones as defined in at least claims 13, 15, 16 and 17 of the '187 patent; claims 1, 3, and 9 of the '421 patent; and claim 7 of the '643 patent.

13. Accordingly, IPT is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

14. HTC's infringement, contributory infringement and inducement to infringe has caused irreparable harm to IPT, who has no adequate remedy at law, and will continue to injure IPT, unless and until this Court enters an injunction prohibiting further infringement of the '187, '421, and '643 patents.

15. IPT has complied with the requirements of 35 U.S.C. §287.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff, Innovative Patented Technology, LLC, respectfully requests this Court enter judgment against HTC, and against its subsidiaries, successors, parents, affiliates, officers, directors, agents, servants,

employees, and all persons in active concert or participation with them, granting the following relief:

- A. The entry of judgment in favor of IPT and against HTC;
- B. An award of damages adequate to compensate IPT for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to IPT of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement, inducement of infringement and/or contributory infringement of the '187, '421, and '643 patents; and,
- E. Such other relief that IPT is entitled to under law and any other relief that this Court or a jury may deem just and proper.

#### **JURY DEMAND**

IPT demands a trial by jury on all issues presented in this complaint.

BERGER SINGERMAN

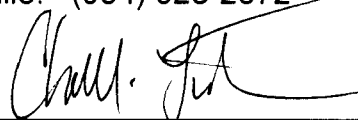
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JS 44  
(Rev. 12/96)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS****Innovative Patented Technology, LLC****DEFENDANTS****HTC America, Inc.****(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Palm Beach**  
**County**

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)****Charles Lichtman, Berger Singerman, 350 East Las  
Olas Boulevard, Ste. 100, Fort Lauderdale, Florida  
33301 (Phone: 954-525-9900)**

ATTORNEYS (IF KNOWN)

*01080V 62086-21004- LSS***(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE HIGHLANDS****II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)**

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)**

- |   | PTF                                 | DEF                      |   | PTF                      | DEF                                 |
|---|-------------------------------------|--------------------------|---|--------------------------|-------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> | <input type="checkbox"/>            |
| Citizen of Another State                | <input type="checkbox"/>            | <input type="checkbox"/> | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/>            | <input type="checkbox"/> | Foreign Nation  | <input type="checkbox"/> | <input type="checkbox"/>            |

**IV. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)**

A CONTRACT	A TORTS		FORFEITURE/ PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Encl. Veterans) <input checked="" type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>A PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input checked="" type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3401 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>A REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>A CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input checked="" type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>A LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Rel. Inc. Security Act	<b>B SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA 1395(f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVII <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 890 Other Statutory Actions <b>A OR B</b>

JS 44  
(Rev. 12/96)

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Title 35 of the United States Code, including 35 U.S.C. 271, 281 and 284.

LENGTH OF TRIAL  
via \_\_\_\_\_ days estimated (for both sides to try entire case)

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint.  
JURY DEMAND: ☒ YES

**VIII. RELATED CASE(S) IF ANY** (See instructions)

DATE \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_  
SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

**FOR OFFICE USE ONLY**

RECEIPT # 545061 AMOUNT 350.00 APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_